

**ENTERED**

October 06, 2016

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION**

ERNESTO ELIZONDO,

Plaintiff,

VS.

AKAL SECURITY, INC. and LORETTA  
LYNCH,

Defendants.

§  
§  
§  
§  
§  
§  
§

CIVIL NO. 2:15-CV-00513

**ORDER**

The Court is in receipt of Plaintiff's Notice of Voluntary Dismissal against Defendants Akal Security, Inc., and Loretta Lynch, Attorney General of the United States, Dkt. No. 28.

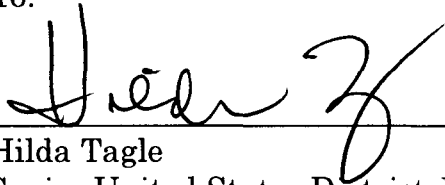
Federal Rule of Civil Procedure 41 outlines two ways that parties may voluntarily dismiss an action without a court order. Fed. R. Civ. P. 41(a)(1)(A)(i)-(ii). Rule 41(a)(1)(A)(i) states, in part, that "the plaintiff may dismiss an action without a court order by filing . . . a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment." Fed. R. Civ. P. 41(a)(1)(A)(i). Rule 41(a)(1)(A)(ii) states, in part, that where an opposing party has filed a responsive pleading, a "plaintiff may dismiss an action without a court order by filing . . . a stipulation of dismissal signed by all parties who have appeared." Fed. R. Civ. P. 41(a)(1)(A)(ii). In all other circumstances, the plaintiff seeking to voluntarily dismiss must obtain an order of dismissal from the court.

Plaintiff filed a complaint on January 22, 2015 against Akal Security, Inc., and Loretta Lynch in her official capacity as Attorney General of the United States, Dkt. No. 1. Defendant Akal Security, Inc., filed an answer motion on February 3, 2016, Dkt. No. 16, and Defendant Loretta Lynch filed an answer motion on March 4, 2016, Dkt. No. 17. Because both opposing parties have served answers, Plaintiff may only seek voluntary dismissal of this action, absent a court order, under Rule

41(a)(1)(A)(ii). Plaintiff's instant motion does not comply with Rule 41(a)(1)(A)(ii) because it is not signed by Akal Security, Inc., or Loretta Lynch. *See* Dkt. No. 28.

Accordingly, the Court **STRIKES** Plaintiff's motion, Dkt. No. 28. The Court further **ORDERS** the parties to file a joint stipulation of dismissal pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii), or otherwise update the Court on how they wish to proceed, within thirty days following entry of this Order.

SIGNED this 6 day of October, 2016.

  
\_\_\_\_\_  
Hilda Tagle  
Senior United States District Judge